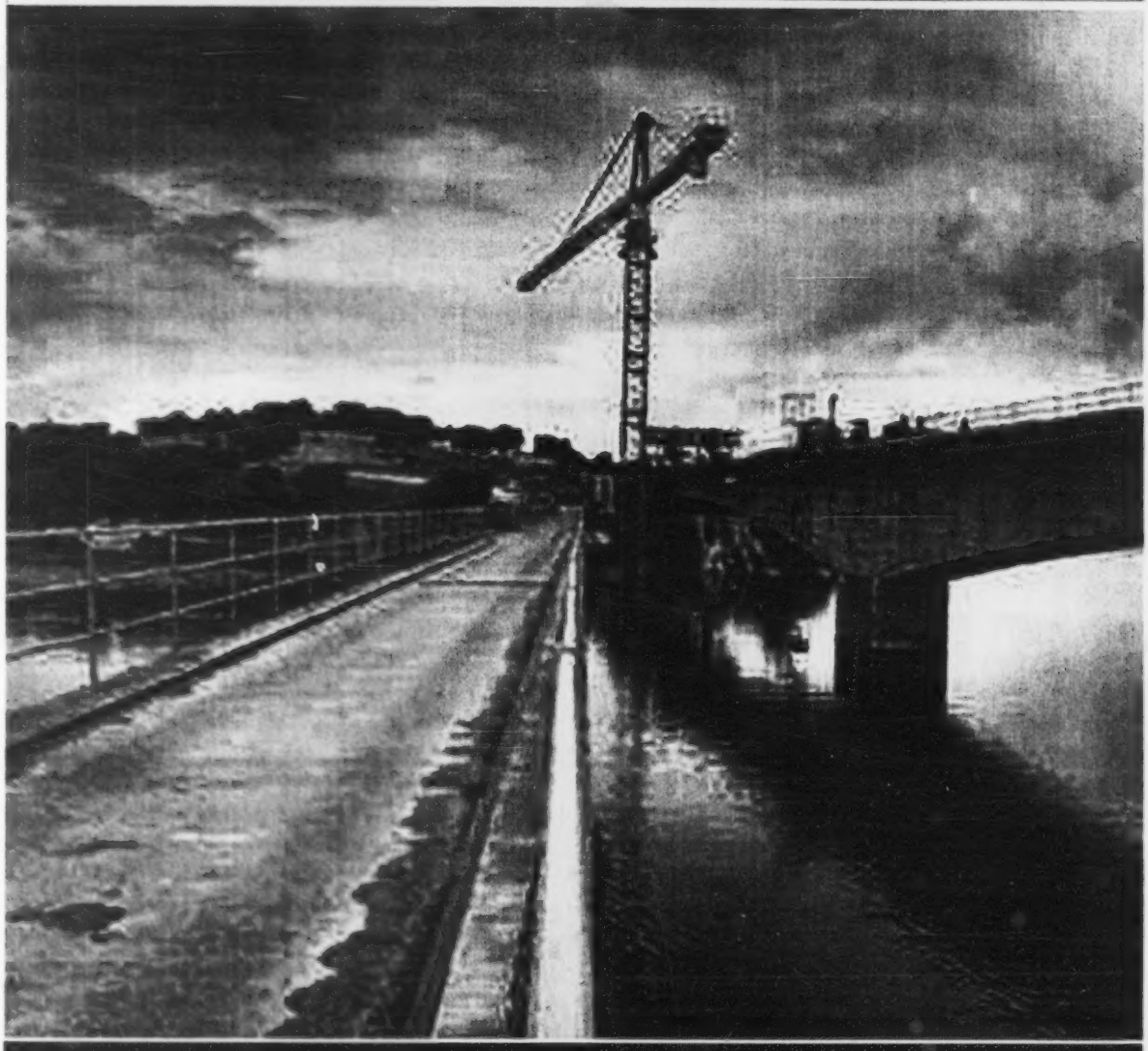
A Guide for Proponents and the Public

Federal/Provincial Environmental Assessment Coordination in Ontario

Facilitating Implementation of the Canada-Ontario Agreement on Environmental Assessment Cooperation



Canada

Ontario

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June 2007

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This guide is intended for information purposes only. It should not be perceived as a substitute for the *Canadian Environmental Assessment Act* or any of its regulations or the Ontario *Environmental Assessment Act* or any of its regulations. In the event of any inconsistency between this guide and the acts or regulations, the latter would prevail.

This guide is published as a living document that will be reviewed and revised as necessary. Any comments, suggestions for revision or clarification are welcomed and should be sent to the Director of the Environmental Assessment and Approvals Branch, Ministry of the Environment or the Regional Director, Ontario Regional Office of the Canadian Environmental Assessment Agency at the addresses listed below.

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List of Acronyms

Agency	Canadian Environmental Assessment Agency, Ontario Regional Office
Agreement	*Canada-Ontario Agreement on Environmental Assessment Cooperation*
CEAA	*Canadian Environmental Assessment Act*
CEAR	Canadian Environmental Assessment Registry
Class EA	class environmental assessment (provincial)
Director	Director, Environmental Assessment and Approvals Branch, Ontario Ministry of the Environment
EA	environmental assessment
EAAB	Environmental Assessment and Approvals Branch, Ontario Ministry of the Environment
Electricity Guide	*Guide to Environmental Assessment Requirements for Electricity Projects*
FA	federal authority
FEAC	federal environmental assessment coordinator
GRT	Government Review Team (provincial)
JAC	Joint Assessment Committee
Minister	Minister of the Environment (provincial)
MOE	Ministry of the Environment (provincial)
OEAA	Ontario *Environmental Assessment Act*
Parties	Ontario (represented by the EAAB) and Canada (represented by the Agency)
Regional Director	Director, Canadian Environmental Assessment Agency, Ontario Regional Office
RA	responsible authority (federal)
ToR	terms of reference (provincial)

1. Introduction

This *Guide for Proponents and the Public* (guide) has been developed to help **proponents** and the public understand how Ontario and Canada (the **Parties**) are applying the principles contained in the ***Canada-Ontario Agreement on Environmental Assessment Cooperation*** (Agreement)[1] and how **environmental assessment** (EA) coordination can be facilitated. This guide describes the roles and responsibilities for implementing a **cooperative EA** (henceforth referred to as a coordinated EA).

1.1 What Types of Coordinated EAs Are Covered by the Guide?

This guide covers **projects** that require a **federal screening** and:

- a provincial **individual EA** in accordance with the Ontario *Environmental Assessment Act* (OEAA) (see Section 2); or,
- a provincial **class EA** process or provincial **Environmental Screening Process** in accordance with **Ontario Regulation 116/01** (henceforth referred to as the Electricity Projects Regulation) (see Section 3)[2].

Using This Guide

This guide should be used by project proponents in conducting EAs that require approvals or decisions under both the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act*.

This guide will also help groups or individuals who want a better understanding of when and how projects subject to both federal and provincial EA requirements are coordinated.

A Glossary is included as Appendix A of this guide. The first time a term included in the Glossary is used in the guide, it is shown in bold.

Sections 4 and 5 list additional sources of information about federal and provincial EA processes and requirements.

The Canadian Environmental Assessment Agency is the point of contact for the public when there are questions about how CEAA applies.

The Environmental Assessment and Approvals Branch is the point of contact for the public when there are questions about how OEAA applies.

1.2 Who Has Responsibilities for EA Coordination?

The Canadian Environmental Assessment Agency (Agency) administers the federal EA process in Canada. For multi-jurisdictional EAs (that is, for projects that require federal EAs concurrently with an EA from another jurisdiction or government), the

[1] Copies of the Agreement can be viewed or obtained on the websites of the Agency (www.ceaa-acee.gc.ca) and the MOE (www.ontario.ca/environment).

[2] Or any other Environmental Screening Process developed by the province and included in the Agreement that may be amended from time to time e.g. Ontario Regulation 101/07 (Waste Management Projects Regulation) and the accompanying *Guide to Environmental Assessment Requirements for Waste Management Projects* (Waste Guide).

Agency acts as the **federal environmental assessment coordinator** (FEAC)[3]. In this guide, FEAC refers to the Agency Coordinator who coordinates the participation of **federal authorities** (FAs) among themselves, and with other jurisdictions and governments, using specific duties and powers outlined in the *Canadian Environmental Assessment Act* (CEAA).

The Ontario Ministry of the Environment (MOE) administers the provincial EA process. A provincial Project Officer within MOE's Environmental Assessment and Approvals Branch (EAAB) is assigned to coordinate the input and involvement of provincial ministries and agencies for individual EAs and coordinated EAs. Where projects follow one of the approved provincial class EAs, regional EA coordinators administer provincial EA requirements and may provide guidance to proponents who wish to coordinate federal and provincial EA requirements.

Federal-Provincial Coordination Is:

- A cooperative approach to coordinate two EA processes.
- Where both governments' EA legislation is applied.
- An approach to obtain the type and quality of information needed to meet federal and provincial EA requirements.
- Where each government makes its own decisions but coordinates timing.

Federal-Provincial Coordination Is Not:

- The use of one piece of legislation to satisfy both federal and provincial requirements.
- The use of the "lowest common denominator" to meet EA obligations.
- Likely to be full integration of processes in lock-step at each decision point, but it will be as close as it can be.
- A process to consolidate and integrate all other provincial and federal approvals that may be required.

1.3 What Is Needed from Proponents to Facilitate EA Coordination?

The proponent is expected to provide the required information on the project and its potential **environmental effects**.

For individual EAs coordinated with federal screenings, the requirements will be described in the provincial **terms of reference** (ToR) (see Section 2.9.1) and the federal **scoping document** (see Section 2.9.3).

Where proponents wish to coordinate federal screening requirements with a **class EA project**[4] or a project that follows a provincial Environmental Screening Process, proponents must meet requirements as prescribed in the relevant provincial class EA, the *Guide to Environmental Assessment Requirements for Electricity Projects* (Electricity Guide) and the federal scoping document (see Section 3.7.2).

[3] Appendix B also provides additional information about the coordination roles of the federal Agency Coordinator, provincial Project Officer and provincial regional EA coordinator.

[4] Projects that are subject to a provincial class EA are referred to as a "class EA project."

1.4 How Can the Public Get Involved in a Coordinated EA?

For information about how to get involved in the EA for a specific project, members of the public should contact the proponent. Members of the public may also wish to contact the EAAB or the Agency in order to learn about the process that will be used for the EA of a specific project and how they can get involved.

Information about a project can also be found on the Canadian Environmental Assessment Registry (CEAR) on the Agency's website (www.ceaa-acee.gc.ca/050/index_e.cfm) or on the EA page of MOE's website (www.ene.gov.on.ca/envision/ea/index.htm).

1.5 How Will EA Coordination Be Initiated?

The provincial or federal government will initiate coordinated EAs for all projects that require an individual EA and a federal screening at the same time. This is accomplished through early notification of one government by the other, as described in Section 2.1.

Proponents wishing to coordinate provincial class EA or provincial Environmental Screening Process requirements with federal screening requirements should notify and consult with the Ontario Regional Office of the Agency early in the planning process. In these cases, it is up to the proponent to initiate a coordinated process, as described in Section 3.

1.6 Is Coordination Optional?

Under the Agreement, Canada and Ontario have agreed to cooperate where feasible.

For individual EAs with federal screenings — coordination is not optional.

For provincial class EA projects or projects following a provincial Environmental Screening Process with federal screenings — coordination is optional. Proponents of these types of projects are expected to contact the Agency to discuss coordination. Since these types of projects follow a self assessment process, which is carried out by the proponent, the MOE does not normally get involved.

Who To Contact

EAAB

- For provincial individual EAs

MOE Regional EA Coordinator

- For a project following a provincial class EA process
- For a project following a provincial Environmental Screening Process e.g. according to the Electricity Projects Regulation or Waste Management Projects Regulation

Agency

- For federal screenings
- For coordinated provincial individual EAs
- For a project following a provincial class EA process
- For a project following a provincial Environmental Screening Process

When might coordination not be feasible?

Proponents should contact the EAAB (in the case of an individual EA) or the Agency (in the case of either an individual EA, class EA or **electricity project assessment**[5]) to discuss whether coordination is applicable for projects where:

- the provincial EA and/or federal EA was initiated before the signing of the Agreement; or,
- one jurisdiction's EA is initiated in the late stages of the other jurisdiction's EA and therefore, little, if any, coordination is possible.

[5] Projects that are subject to the Environmental Screening Process under the Electricity Projects Regulation are referred to as an "electricity project assessment."

2. Coordinating Individual Environmental Assessments with Federal Screenings

2.1 Who Should Be Notified?

Proponents should contact the EAAB and/or the Agency as early in the planning process as possible. Proponents should include enough information in a written notification so that the EAAB and the Agency can determine if there may be an EA responsibility or interest. A proponent should include the following information, if available:

- the proponent's name and contact information;
- the name and contact information for the proponent's consultant, if relevant;
- a brief description of the project (may be very general at this point);
- the location of the study area;
- the reason(s) for thinking CEAA might apply;
- the reason(s) for thinking an individual EA may be required;
- other applicable approval requirements;
- steps taken in the EA process (e.g. preliminary consultation, ToR preparation, other planning approvals, etc.) to date by the proponent, if any;
- information on agencies contacted by the proponent to date.

It is also helpful if proponents can provide a preliminary schedule for the submission of the ToR and the **project description**.

After the EAAB or the Agency becomes aware of a project, they will contact each other and discuss next steps. The EAAB and Agency will liaise with one another and provide assistance to the proponent throughout the entire EA process, as required. The EAAB will provide consolidated guidance to the proponent, where appropriate.

Provincial and federal authorities, where appropriate, consult with the public when the proponent makes a formal submission. Provincially, this occurs when the ToR and EA are submitted to MOE. Federally, notification occurs when a Notice of Commencement is posted on the CEAR.

2.2 Who Has the Lead?

A **Lead Party**, generally the EAAB, administers the coordinated EA and:

- provides one point of contact for communication with a proponent and is the one-window for proponents to both provincial and federal processes;
- facilitates coordinated guidance on federal and provincial EA requirements;
- ensures that information provided by the proponent is shared with the other Party;
- advances federal and provincial EA processes while being attentive to and consistent with provincially regulated deadlines.

Because the EAAB will be the Lead Party in most cases, this guide is written from that perspective. If a situation arises in which the Agency is the Lead Party, the principles of coordination described in this guide would be the same, but the project-specific mechanics of how coordination works may vary. The Parties and the proponent should discuss this issue early in the coordinated EA.

How Do the Governments Determine Their EA Responsibilities?

Where one government has an EA responsibility and the other believes that it may have an EA responsibility but has not yet been able to make such a determination (as happens when there is not yet enough project information available), the government that has yet to make a determination will participate in the EA until it has made a determination.

There may be instances where there is no apparent CEAA trigger in the early stages of a project assessment. However, if there is the potential for a CEAA trigger to be identified as more detailed information on the project becomes available, an Agency Coordinator may still be assigned to participate in the EA and to provide guidance to the proponent.

2.3 What Is the Coordination Process to Be Followed?

The key steps and roles and responsibilities for coordinated processes to be generally followed for individual EAs and federal screenings are illustrated in Figure 2.1 ("traditional" individual EA) and Figure 2.2 ("focused" individual EA).

Because the determination of whether CEAA applies (and therefore, federal agencies are fully engaged in an EA) depends on the level of detail known and is based on the project description, Figures 2.1 and 2.2 differ in showing when federal engagement may occur. Generally when a "traditional" individual EA (refer to Figure 2.1) is carried out, federal authorities will be involved when a preferred "alternative to" has been selected and a general study area has been identified.

Proponents who are further along in their planning may be in a better position to define how they intend to prepare their EA (commonly known as "focusing" although the term is not used in the OEAA). The focusing provisions allow proponents to determine the requirements for how an EA will be prepared. That is, requirements may include more or less of the requirements prescribed under subsection 6.1(2) of the OEAA. Generally, when a "focused" individual EA (refer to Figure 2.2) is carried out, a preferred "alternative to" is usually known during the ToR stage and federal authorities will be engaged earlier.

OEAA Requirements

A provincial EA traditionally consists of the following information (prescribed requirements under subsection 6.1(2)):

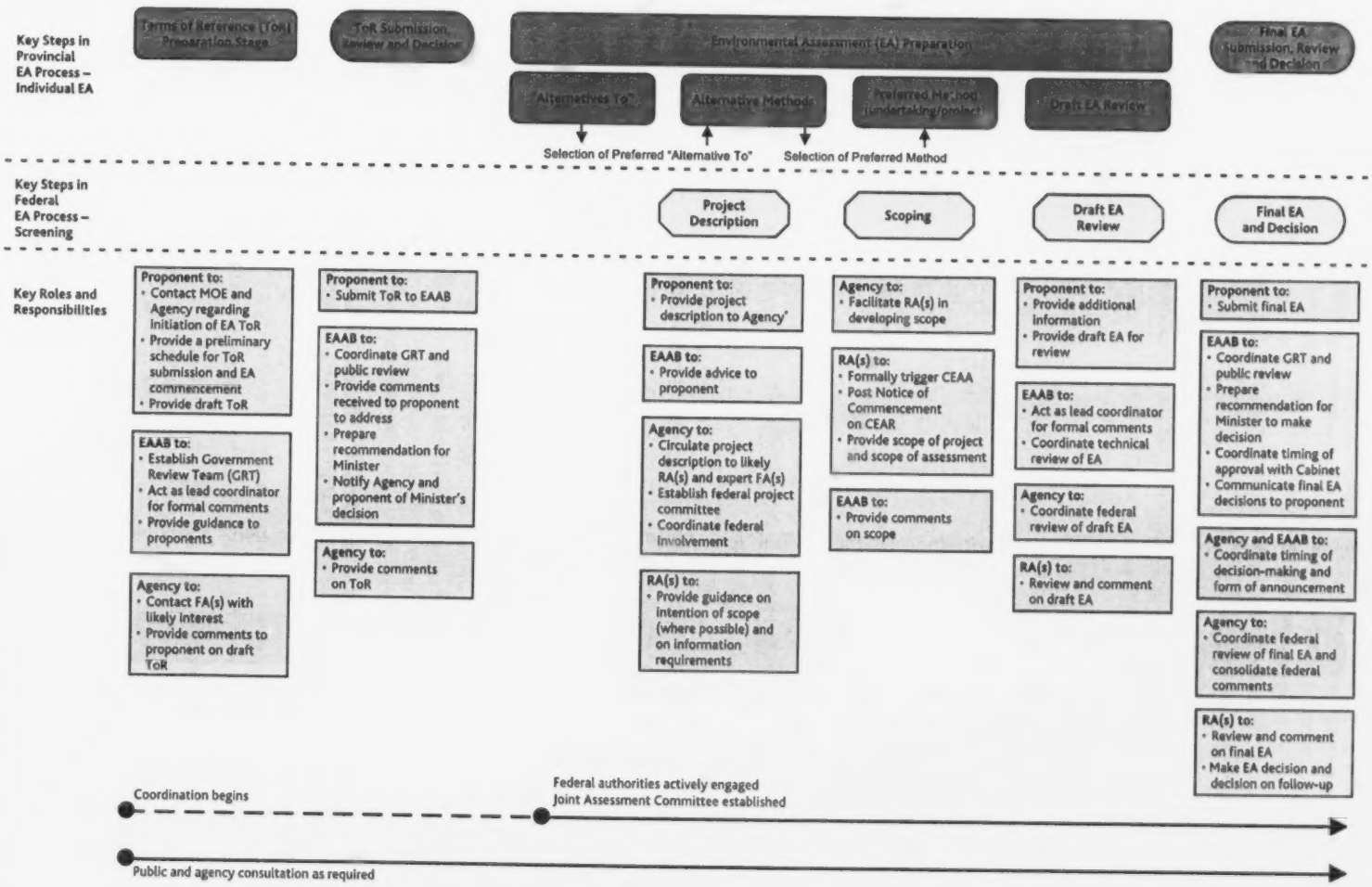
- A description of the purpose of the undertaking.
- A description of and statement of the rationale for the undertaking, the alternative methods of carrying out the undertaking, and the alternatives to the undertaking.
- A description of the environment that will be affected, the effects that will be caused by the environment, and the actions necessary to prevent, change, mitigate or remedy the effects upon the environment.
- An evaluation of the advantages and disadvantages to the environment of the undertaking, the alternative methods and the alternatives to.
- A description of any consultation about the undertaking and the results of the consultation.

Figures 2.1 and 2.2 outline the key roles and responsibilities for the proponent, EAAB, Agency and **responsible authorities**[6] (RAs). Public consultation will be carried out during the entire EA process, as illustrated in Figures 2.1 and 2.2, and in accordance with relevant federal and provincial legislation. These flow charts are useful and important reference tools for proponents and other federal and provincial participants in the coordinated EA process.

A coordinated EA will be reviewed by the EAAB, the Agency and RAs in a manner that is consistent with and mindful of provincially regulated deadlines.

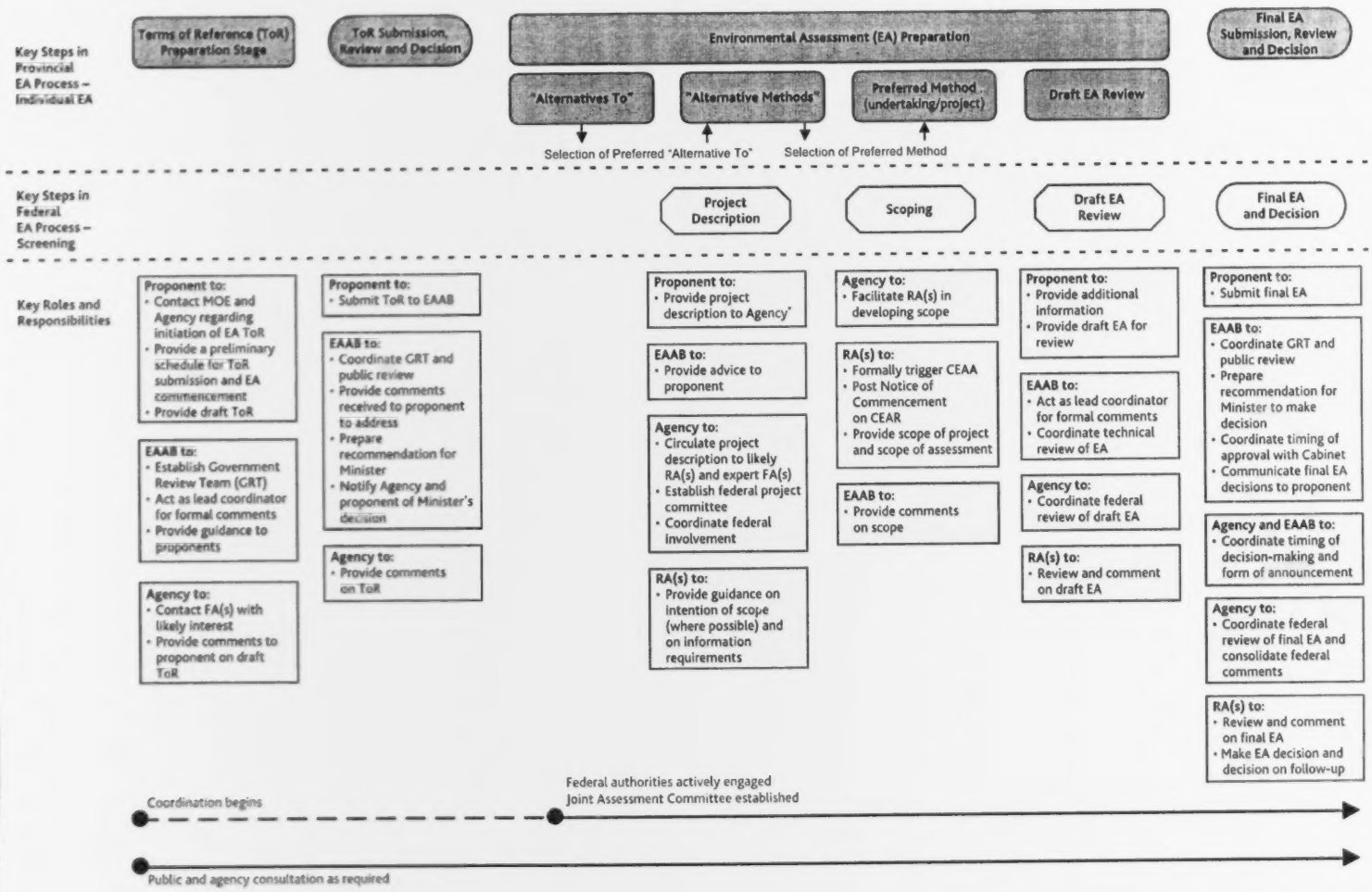
[6] For the purposes of this guide, the terms RA and FA include prescribed authorities (e.g. Port Authorities).

Figure 2.1: Key Steps, Roles and Responsibilities for Coordinating "Traditional" Individual Environmental Assessments with Federal Screenings


Key Steps in Provincial EA Process – Individual EA
Terms of Reference (ToR) Preparation Stage
ToR Submission, Review and Decision
Environmental Assessment (EA) Preparation
Final EA Submission, Review and Decision
Alternatives To
Alternative Methods
Preferred Method (undertaking/project)
Draft EA Review
Selection of Preferred "Alternative To"
Selection of Preferred Method
Key Steps in Federal EA Process – Screening
Project Description
Scoping
Draft EA Review
Final EA and Decision
Key Roles and Responsibilities
Proponent to:
• Contact MOE and Agency regarding initiation of EA ToR
• Provide a preliminary schedule for ToR submission and EA commencement
• Provide draft ToR
EAAB to:
• Establish Government Review Team (GRT)
• Act as lead coordinator for formal comments
• Provide guidance to proponents
Agency to:
• Contact FA(s) with likely interest
• Provide comments to proponent on draft ToR
Proponent to:
• Submit ToR to EAAB
EAAB to:
• Coordinate GRT and public review
• Provide comments received to proponent to address
• Prepare recommendation for Minister
• Notify Agency and proponent of Minister's decision
Agency to:
• Provide comments on ToR
Proponent to:
• Provide project description to Agency*
EAAB to:
• Provide advice to proponent
Agency to:
• Circulate project description to likely RA(s) and expert FA(s)
• Establish federal project committee
• Coordinate federal involvement
RA(s) to:
• Provide guidance on intention of scope (where possible) and on information requirements
Agency to:
• Facilitate RA(s) in developing scope
RA(s) to:
• Formally trigger CEAA
• Post Notice of Commencement on CEAR
• Provide scope of project and scope of assessment
EAAB to:
• Provide comments on scope
Proponent to:
• Provide additional information
• Provide draft EA for review
EAAB to:
• Act as lead coordinator for formal comments
• Coordinate technical review of EA
Agency to:
• Coordinate federal review of draft EA
RA(s) to:
• Review and comment on draft EA
Proponent to:
• Submit final EA
EAAB to:
• Coordinate GRT and public review
• Prepare recommendation for Minister to make decision
• Coordinate timing of approval with Cabinet
• Communicate final EA decisions to proponent
Agency and EAAB to:
• Coordinate timing of decision-making and form of announcement
Agency to:
• Coordinate federal review of final EA and consolidate federal comments
RA(s) to:
• Review and comment on final EA
• Make EA decision and decision on follow-up
Coordination begins
Federal authorities actively engaged
Joint Assessment Committee established
Public and agency consultation as required

* Proponent to provide project description when the preferred "alternative to" has been selected and a general study area is identified.

Figure 2.1: Key Steps, Roles and Responsibilities for Coordinating "Traditional" Individual Environmental Assessments with Federal Screenings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• Provide guidance to proponents
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EAAB to:
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• Provide comments received to proponent to address
• Prepare recommendation for Minister
• Notify Agency and proponent of Minister's decision
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Agency to:
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Proponent to:
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Agency to:
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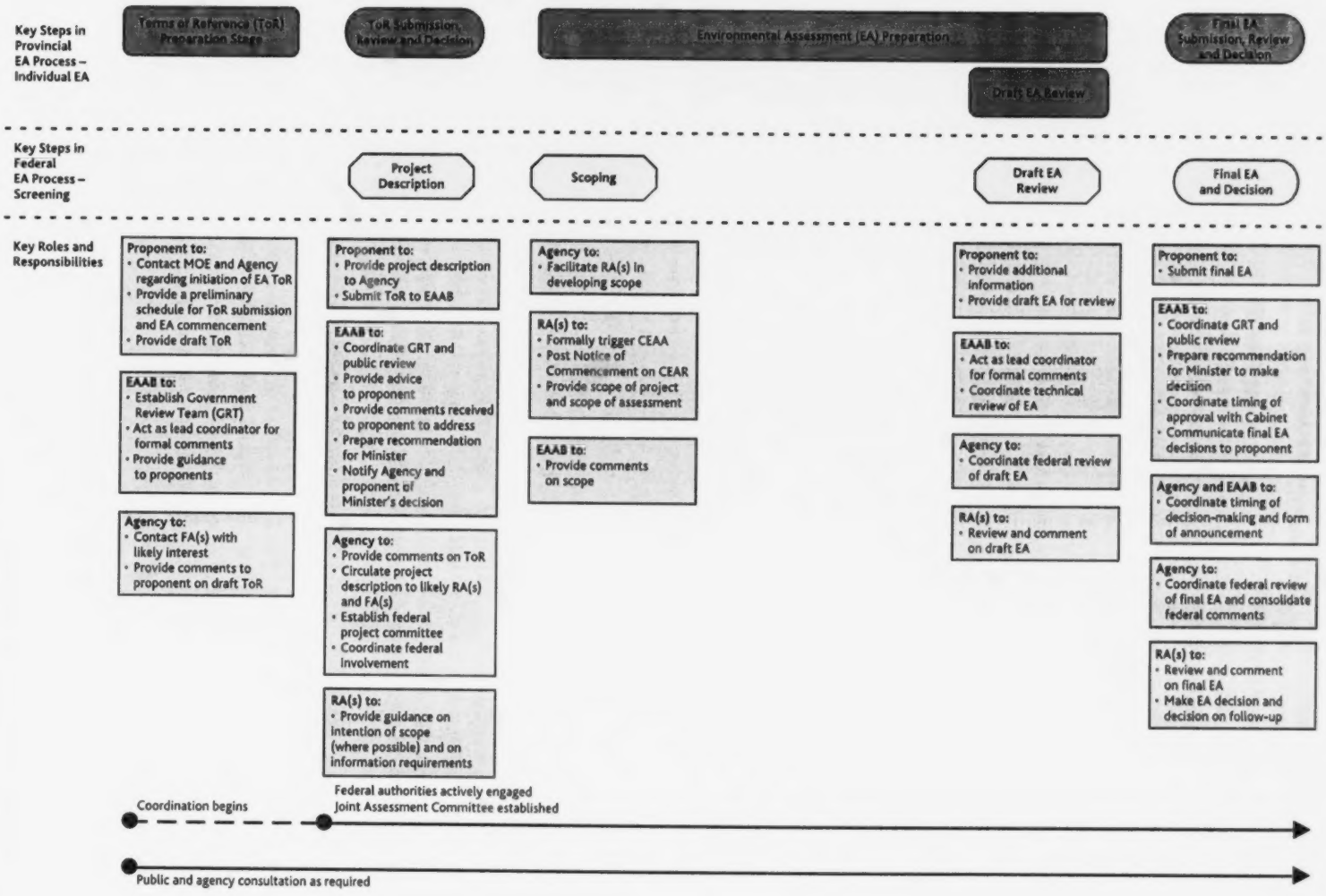
RA(s) to:
• Review and comment on final EA
• Make EA decision and decision on follow-up
Coordination begins
Federal authorities actively engaged
Joint Assessment Committee established
Public and agency consultation as required

* Proponent to provide project description when the preferred "alternative to" has been selected and a general study area is identified.

Figure 2.2: Key Steps, Roles and Responsibilities for Coordinating "Focused" Individual Environmental Assessments with Federal Screenings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EAAB to:
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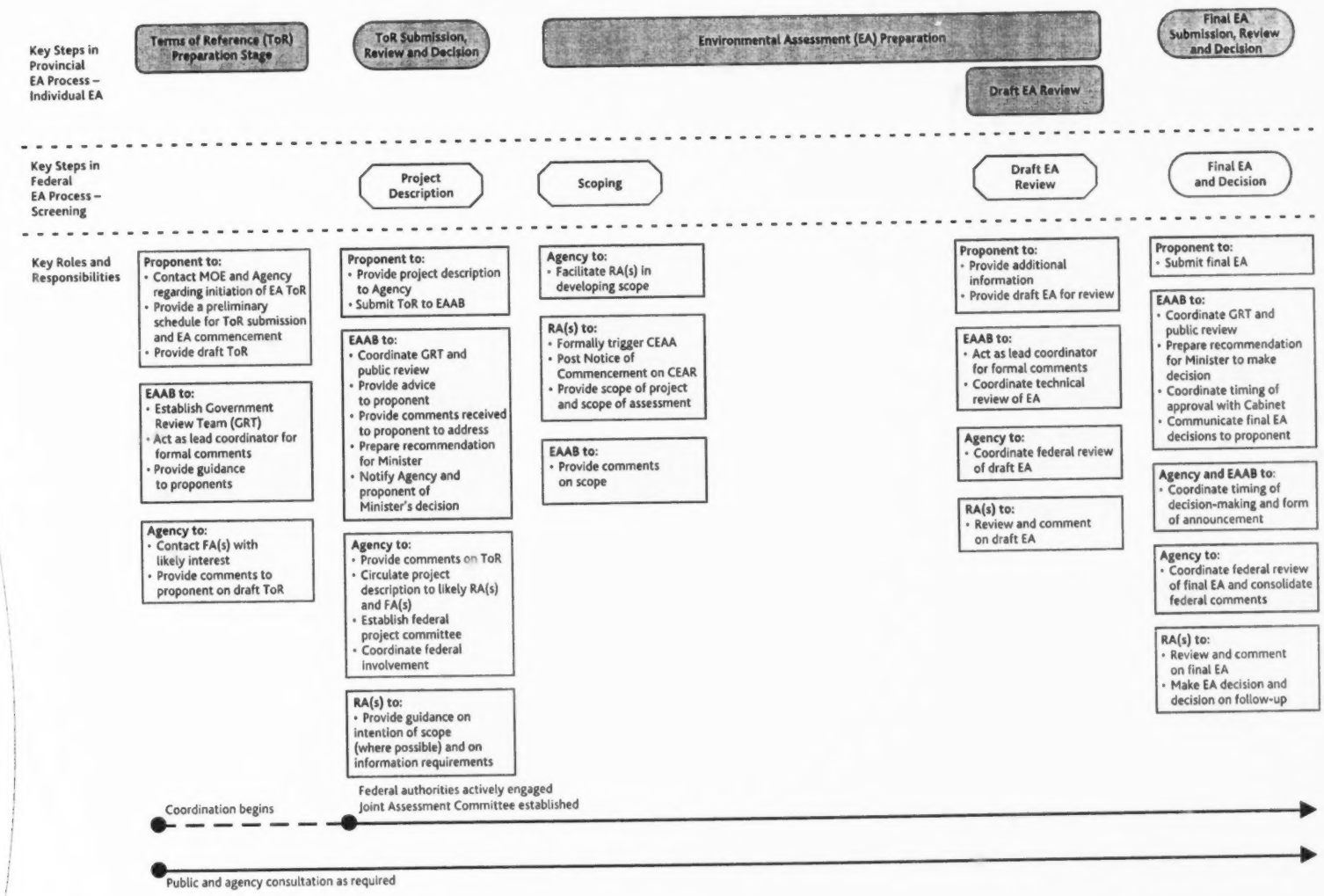
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• Provide draft EA for review
EAAB to:
• Act as lead coordinator for formal comments
• Coordinate technical review of EA
Agency to:
• Coordinate federal review of draft EA
RA(s) to:
• Review and comment on draft EA
Proponent to:
• Submit final EA
EAAB to:
• Coordinate GRT and public review
• Prepare recommendation for Minister to make decision
• Coordinate timing of approval with Cabinet
• Communicate final EA decisions to proponent
Agency and EAAB to:
• Coordinate timing of decision-making and form of announcement
Agency to:
• Coordinate federal review of final EA and consolidate federal comments
RA(s) to:
• Review and comment on final EA
• Make EA decision and decision on follow-up
Coordination begins
Federal authorities actively engaged
Joint Assessment Committee established
Public and agency consultation as required

2.4 What Is the Role of the Joint Assessment Committee?

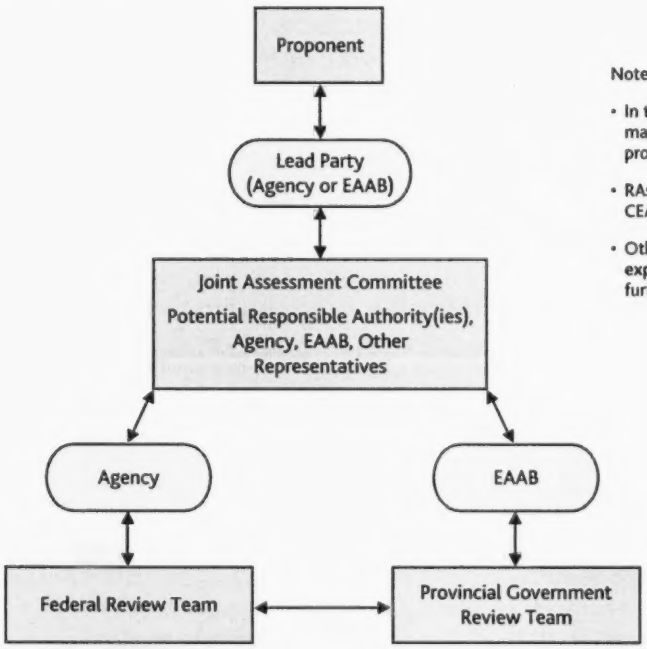
The EAAB establishes and manages a **Joint Assessment Committee** (JAC) after a proponent has notified either the Agency or the EAAB of a proposed project, and after it is determined that there is a provincial and federal EA responsibility. The JAC provides a forum for federal and provincial agencies to discuss and coordinate EA related matters, including information requirements and **timelines** for key stages of the EA process and decision-making.

The JAC consists of representatives from the Agency, the RA(s) and the EAAB, along with any additional federal or provincial representatives that may be appropriate. The JAC will hold meetings with the proponent and their consultant(s), as required.

An important responsibility of the JAC is the development of a **work plan** (see Section 2.5), where appropriate.

Figure 2.3 illustrates the general relationships and paths of communication for a coordinated EA process, including how the JAC relates to the EAAB as Lead Party and the proponent.

Figure 2.3: General Paths of Communication



Notes:

- In the initial stages of coordination, the JAC may consist only of the Agency Coordinator and provincial Project Officer.
- RAs will join the JAC when they have triggered CEAA.
- Other provincial ministries and agencies or expert FAs may be invited to join the JAC as further project details are known.

2.5 Work Plans

The JAC will develop a work plan for all coordinated individual EAs with federal screenings. The JAC work plan will establish the overall process, milestones and timelines for the EA. It outlines a plan for the coordinated EA, including the approximate amount of time (i.e. number of weeks) required by federal and provincial authorities to complete each step. The contents of the work plan, including proposed project timelines, should be discussed at a coordination start-up meeting.

For proponents submitting a "focused" ToR, the development of a JAC work plan may be appropriate at the ToR stage. If a proponent is submitting a ToR intending to prepare an individual EA that meets the requirements in subsection 6.1(2) of the OEAA, a work plan may not be developed until later in the EA process, after a project description is prepared and circulated to FAs. This would generally be when a preferred "alternative to" and study area are known.

Proponents will be advised of the JAC work plan. Proponents are expected to advise the EAAB of any changes to their project schedule so that the JAC work plan can be adjusted accordingly.

2.6 Public Participation

In a coordinated EA, the EAAB, the Agency and RAs will work with the proponent to avoid duplication and promote efficiency in planning for public consultation.

Proponents are encouraged to work with key stakeholder groups, the EAAB, the Agency and RAs to coordinate public participation initiatives, where possible and appropriate. This could include holding joint public meetings or issuing joint newsletters or project updates.

Another example of where participation initiatives could be coordinated is if an RA determines that it is appropriate to conduct public participation in accordance with subsection 18(3) of CEAA[7]. The Agency's *Ministerial Guideline on Assessing the Need for and Level of Public Participation in Screenings under the Canadian*

[7] Subsection 18(3) of CEAA indicates that when an RA is of the opinion that public participation in the screening of a project is appropriate in the circumstances, the RA shall give the public an opportunity to examine and comment on the screening report.

Environmental Assessment Act contains criteria to assist RAs in determining whether public participation is warranted. In these cases the RA will, to the extent practical, work with the EAAB to coordinate this public participation with the provincial government and public review of the **EA Report**.

In addition, public records will be maintained according to the requirements contained in federal and provincial legislation. Both the public and proponents should be aware that most documents, including those described in this guide, e-mail messages and other forms of communication, prepared by the proponent (or their consultant) or either of the Parties, are accessible to the public.

2.7 Consideration of Aboriginal Interests

Where a project that is subject to a coordinated process for an individual EA and a federal screening has the potential to have environmental effects on Aboriginal communities, the provincial and federal governments intend to ensure that potentially affected Aboriginal communities are notified so that they may participate in the coordinated EA. In addition, relevant government notification and consultation policies or procedures will be taken into account.

The goal of a coordinated approach to Aboriginal engagement is threefold, as follows:

- to facilitate early communication with potentially affected Aboriginal communities;
- to provide opportunities for the participation of Aboriginal communities in coordinated federal/provincial EA processes; and,
- to facilitate the incorporation of Aboriginal interests into coordinated EAs.

Proponents must also consult with potentially affected Aboriginal communities. Proponents are encouraged to address Aboriginal issues relevant to the EA to the extent that it is practicable to do so. A proponent will be required to provide a copy of the draft ToR to potentially affected Aboriginal communities, for review and comment.

In certain situations, the provincial and/or federal governments may have further responsibilities to consult with Aboriginal communities regarding asserted or existing Aboriginal or treaty rights. Procedural aspects of these consultation obligations may be delegated to proponents.

It should be noted that whether or not the Crown has a legal duty to consult with an Aboriginal community, the community may be an interested person for the purposes of public consultation.

2.8 Addressing Mitigation and Follow-up

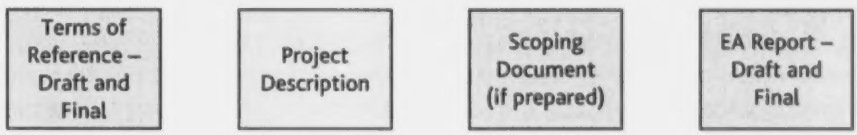
Impact management measures, such as mitigation measures, must be considered for both individual EAs and federal screenings. The JAC will coordinate the review of mitigation measures proposed by the proponent, in addition to potentially considering other mitigation measures that they feel are appropriate. The JAC will communicate with the proponent when considering mitigation measures for a project or terms and conditions for EA approval which pertain to required mitigation measures.

Some forms of mitigation may not be appropriate to include in terms and conditions of approval. If these are required by an FA, then the JAC may facilitate the development of a project-specific agreement that outlines agreed-upon mitigation requirements. This agreement would reflect the commitments of the proponent and other parties to it, which might include some or all members of the JAC.

For a federal screening, an RA must decide whether a **follow-up** program is appropriate for a project. A follow-up program can verify the accuracy of an EA and can determine the effectiveness of any measures used to mitigate environmental effects. When an RA(s) determines that a follow-up program is required, the RA(s) may develop a project-specific agreement that outlines agreed-upon follow-up requirements. RAs are responsible for designing the follow-up program and for ensuring that it is implemented according to any project-specific agreement.

2.9 EA Documentation

For a coordinated EA, documentation generally consists of:



Further information on each of these documents is provided below.

2.9.1 Terms of Reference

Preparation and Review of Draft Terms of Reference

The ToR should contain a commitment by the proponent to work with the Agency and the EAAB to satisfy the EA requirements of both jurisdictions in a coordinated manner. Appendix C contains suggested wording for inclusion in the ToR for a coordinated EA.

The project description, ToR, scoping document and EA Reports are the main documents that are prepared. There may also be other documents such as technical reports, consultation reports and provincial ministry reviews that are prepared. All of these documents are accessible to the public upon request.

It is recommended that before formally submitting a proposed ToR to the MOE for review and approval, proponents should consult and obtain input from the EAAB and the Agency on a draft ToR. During pre-submission consultation with the EAAB and the Agency, the Agency and other federal departments to whom the proponent sent the draft ToR will review and provide comments.

During the preparation of the ToR, the Agency typically will provide proponents with a copy of *Advice to Proponents at the Terms of Reference Stage for a Coordinated Federal/Provincial Environmental Assessment Process*[8]. In the case of a "traditional" ToR, only generic information requirements under CEAA will normally be available because it is often not possible to know with certainty whether CEAA will be triggered at that stage. In the case of "focused" ToRs, the Agency and other federal departments may comment on whether the draft ToR contains enough information that would enable the proponent to prepare a project description or could be used as the project description. Comments may include additional information requirements that can be identified at this stage.

The Agency will coordinate projects where there is at least one potential RA that believes it may have an EA responsibility, without knowing for certain whether CEAA will apply to the project. Coordination will assist in ensuring that CEAA is triggered as early as is practical, and that proponents generally know what will be required in the event that there is a CEAA trigger.

Formal Submission and Review of ToR

The Agency and federal departments with an interest in the project will review the ToR to see how federal interests have been reflected and will provide comments, if appropriate. The Agency will provide any federal comments to the EAAB.

[8] Copies of this document can be obtained from the Agency.

The EAAB will:

- coordinate the formal public and government review;
- provide the proponent with comments received for the proponent's response;
- prepare a recommendation for the Minister.

For further information about how to prepare a ToR and what happens during the review of a ToR, refer to the MOE Code of Practice entitled, *Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario.*

ToR Decision

The EAAB will notify the proponent, members of the public that have expressed an interest in the EA, and the Agency about the Minister's decision on the ToR.

2.9.2 Project Description

In order to initiate the federal EA process, a proponent must submit a project description to the Agency, with a copy to the EAAB, as soon as sufficient information on the project is available. Generally, the earliest appropriate time would be when a preferred "alternative to" is selected and a study area is known. This is an important step that enables potential RAs to determine whether CEAA applies, and FAs to determine whether they will be providing expert advice on the project. The project description should contain enough information to identify whether there is the potential for federal EA requirements, and can be appended to the ToR or provided separately[9].

Once a proponent has provided the Agency with a project description that contains the necessary information, the Agency will circulate it to potential RAs and expert FAs. The potential RAs and expert FAs will have 30 days to review and comment on the project description. Once all responses are received, the Agency will inform the federal team, the proponent and the EAAB of the results of the circulation.

Where the proponent's information on a project is at a very general level, the development of a project description may have to wait until later in the provincial EA process. The Agency will work with proponents in advising them of information to be included in the project description. If the project description does not contain enough information for potential RAs to determine whether they have an EA responsibility, the Agency will advise the proponent about the additional information requirements. Proponents may need to provide additional information as more is learned about the project and its potential environmental effects.

[9] The *Operational Policy Statement on Preparing Project Descriptions under the Canadian Environmental Assessment Act* (2000) outlines the information that FAs require. It can be found on the Agency's website (www.ceaa-acee.gc.ca).

2.9.3 Scoping Document

A scoping document[10] outlines the RA's determinations regarding project-specific information requirements and establishes the boundaries of the federal screening. It outlines what components the RA(s) considers to be within the scope of the project it is assessing and it outlines the factors and scope of factors (i.e. the scope of assessment) to be addressed. Consultation with the public on the scoping document may occur but it is not required. Members of the public may request a copy of the scoping document. Federal information requirements may be refined and further clarified as the EA process proceeds. If this is the case, it will be documented and the documentation will be available to the public upon request. RAs will be making a judgment about the likelihood of significant adverse environmental effects after mitigation and they have the discretion to determine what information they require before making such a judgment.

Federal Advice Received Through Provincial EA Process vs. Federal Advice Received Through Federal EA Process

During a provincial EA process, proponents may receive *advice* from FAs as members of the Government Review Team (GRT). FAs may provide advice to the proponent before the federal EA process has commenced, or for projects where there is no CEAA trigger. The proponent should consider this advice and address it, as appropriate, as they would any other advice from a member of the GRT.

However, once an assessment under CEAA has been formally initiated, the EAAB (in the case of an individual EA) or the RA (in the case of a class EA or an electricity project assessment following the Environmental Screening Process) may convey federal information *requirements* to the proponent. The proponent must respond to these requirements to the RA's or FA's satisfaction before the federal EA can be completed.

Proponents should contact the Agency for guidance if they are uncertain as to the context within which the federal advice is being provided.

2.9.4 EA Report

Preparation and Review of Draft and Final EA Reports

A coordinated EA process should result in a **single body of documentation on environmental effects,** where appropriate, that satisfies both federal and provincial EA requirements. At a minimum, there should be a single body of documentation describing the potential environmental effects of a project, the proposed measures to mitigate, reduce or avoid the effects and the residual effects after avoidance or mitigation. It should contain enough information for federal and provincial EA decisions to be made, and includes all documents that may be produced and submitted to either the Agency or the EAAB during the EA process.

[10] The preparation of a scoping document is not a legal requirement under CEAA. However, the RA(s) must make a determination of the scope of project and scope of assessment, as per CEAA requirements.

To meet the requirement of having a single body of documentation on environmental effects, the draft and final EA Reports can be either: (a) a single document that integrates all federal and provincial information in the main body of the report; or, (b) a document that provides information on either the provincial or federal process in the main body with the information on the other process attached.

A single body of documentation should be interpreted to mean that both the provincial and federal governments have the same information at their disposal when making their EA decisions. Therefore, although there may be separate federal and provincial EA Reports, both Parties need copies of both the main body of the report and the attachments.

Proponents should provide a draft EA Report for provincial and federal review before formally submitting the EA Report to the EAAB.

The formal submission of the proponent's EA Report to the EAAB starts the provincially regulated deadlines for the formal public and government review of the EA Report and the Minister's decision on the proponent's undertaking. The circulation of a draft EA Report for comment and revision before the formal submission to the EAAB will: (a) give greater certainty to both the proponent and provincial and federal departments that all information needs and requirements have been considered; and, (b) make it more likely that the regulated review process can be conducted efficiently, avoiding major changes, the completion of which could be a condition of the provincial decision. It will also make it easier for both the federal and provincial governments to ensure that they each have the same information when making their EA decisions.

The EAAB will share the draft EA Report with the JAC for review and comment, along with any other supplementary draft documents submitted by the proponent. After the Parties have discussed the comments, they will be provided to the proponent. The proponent may be asked to provide additional information or clarification on information contained in the draft EA Report.

It is in the proponent's best interest to satisfactorily respond to issues raised by RAs, early in the EA process, preferably before provincially regulated deadlines commence.

2.10 How Will the Review of the Final EA Report Be Conducted?

When the proponent submits the final EA Report, the EAAB will fulfil OEAA requirements by:

- coordinating the mandatory public and government agency review;
- preparing a report on the results of the review (Ministry Review);
- issuing a Notice of Completion of Review for final public inspection and comment;
- preparing a recommendation for the Minister.

The Agency will coordinate the federal review of the EA Report by:

- consolidating federal government comments[11] and providing to the EAAB for the proponent's response;
- working with RAs to be prepared to make an EA decision in approximately the same time frame as the provincial decision is made, based on the JAC work plan.

The proponent will be given the provincial and federal comments on the EA and they will have to respond to these comments explaining how/why concerns were or were not addressed. If the JAC determines there are deficiencies in the information provided or additional information is needed, a deficiency document will be provided to the proponent.

If there are changes in the scope of the EA or the commitments outlined in the EA, the proponent should bring these to the attention of the EAAB or the Agency.

2.11 When Will Decisions Be Made?

The Parties will work with each other to announce their EA decisions in roughly the same time frame. Decisions will be jointly communicated to the proponent and the public, to the extent possible. In situations where it is not possible to make a joint announcement regarding the federal and provincial decisions, the proponent and interested persons will be notified of the RA's decision and the provincial Cabinet decision[12] by the EAAB.

[11] RAs and FAs may require six to eight weeks to review and provide comments on an EA. Depending on the project, there may be instances when a longer review period is required.

[12] The EA decision is only made public after Cabinet's ratification.

3. Coordinating Class Environmental Assessment Projects or Electricity Project Assessments with Federal Screenings

This section provides information for coordinating projects that are subject to a provincial class EA[13] (referred to as a "class EA project") or projects subject to the Environmental Screening Process (i.e. Category B) under the Electricity Projects Regulation (referred to as an "electricity project assessment") with federal screenings.

In cases where proponents coordinate provincial EA with federal EA requirements, proponents will generally follow the appropriate class EA or Electricity Projects Regulation process, while meeting all CEAA requirements.

3.1 Who Should Be Notified?

Proponents who wish to coordinate provincial and federal EA requirements are expected to notify the Agency as early in the planning process as possible. As soon as a proponent becomes aware of a project that is subject to either a provincial class EA or the Electricity Projects Regulation, and that may potentially trigger CEAA, proponents should inform the Agency. For example, notification should occur at the time of or before a Notice of Commencement is issued. Early notification will optimize opportunities for coordination.

Provincial Class EAs and the Electricity Projects Regulation

Currently there are ten (10) approved provincial class EAs in Ontario, as listed in Appendix D. The vast majority of projects subject to the OEAA are planned and implemented in accordance with a provincial class EA.

The *Guide to Environmental Assessment Requirements for Electricity Projects* (Electricity Guide) provides information on the EA requirements for projects that are subject to the Electricity Projects Regulation.

When a proponent contacts the Agency, the Regional Director will assign an Agency Coordinator. The Agency Coordinator will contact the proponent or the proponent's consultant to discuss next steps, including coordinating project description requirements and the submission of the project description to the FEAC by the proponent. The Agency will provide advice to the proponent throughout the process, as appropriate.

[13] This guide does not address projects that are subject to the 2003 Declaration Order for the *Ministry of Natural Resources Class EA for Forest Management on Crown Lands in Ontario* or any other Declaration Order issued by the province.

The Agency and potential RAs will provide information about whether a project is subject to CEAA. MOE regional EA coordinators can provide guidance about whether a project is subject to the OEAA through either a provincial class EA or the Electricity Projects Regulation. The Agency will provide advice on coordination.

Proponents should include the following information, if available, in the project notification sent to the Agency:

- the proponent's name and contact information;
- the name and contact information for the proponent's consultant, if relevant;
- a brief description of the project (may be very general at this point);
- the location of the study area;
- the reason for thinking CEAA might apply;
- the applicable provincial class EA, if relevant;
- other applicable approval requirements;
- whether the project is subject to the Electricity Projects Regulation;
- the project classification under the relevant provincial class EA or Electricity Guide, if known;
- steps taken in the class EA or electricity project assessment process to date by the proponent, if any;
- information on agencies contacted by the proponent to date.

If proponents identify a potential CEAA trigger at a later point in the class EA or electricity project assessment process, they should contact the Agency's Regional Director to discuss how to best proceed. Conversely, if the Agency becomes aware of a potential CEAA trigger, they will advise the proponent.

There may be instances where there is no apparent CEAA trigger in the early stages of a project assessment. However, if there is the potential for a CEAA trigger to be identified as more detailed information on the project becomes available, an Agency Coordinator may still be assigned to monitor the EA, provide advice to the proponent and engage federal departments once a trigger is identified.

3.2 What Is the Coordination Process to Be Followed?

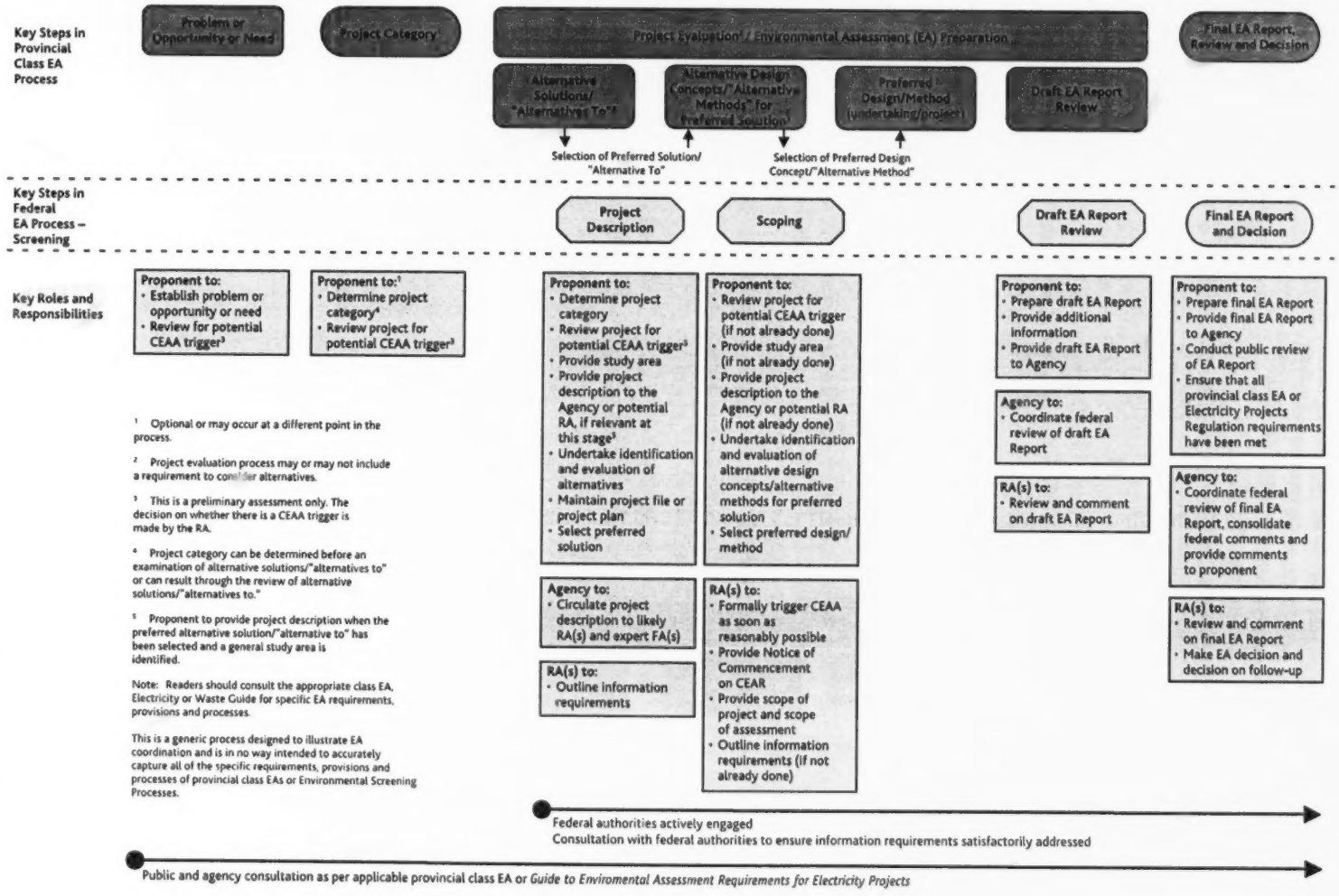
Given that class EA projects and electricity project assessments are proponent-led self-assessing processes, the proponent and the Agency, along with relevant RAs and FAs, are the key players that work together in a coordinated EA process. Proponents are encouraged to engage all potentially affected agencies, including MOE, early in the process to establish an informal working committee to share information. MOE regional EA coordinators can provide guidance and coordinate MOE technical inputs (see Appendix B for further information on the role of the MOE regional EA coordinators).

In order to develop key steps and roles and responsibilities for the coordination of class EA projects or electricity project assessments with federal screenings, a generic process was developed, incorporating the general requirements of provincial class EAs and the Environmental Screening Process of the Electricity Projects Regulation. This process is illustrated in Figure 3.1. Roles and responsibilities for the proponent, the Agency and RAs are outlined. Public consultation will be carried out throughout the EA process, as illustrated in Figure 3.1, and to the extent provided for by CEAA and the relevant provincial class EA or the Electricity Guide. This flow chart is an important reference tool for proponents and federal participants in the coordinated EA process.

It is recognized that the generic process does not exactly mirror the planning processes included in provincial class EAs and the Electricity Guide. The generic process is designed to illustrate EA coordination and is in no way intended to accurately capture all of the specific requirements, provisions and processes of the provincial class EAs or the Electricity Guide. Proponents and the public should refer to the appropriate provincial class EA or the Electricity Guide for meeting specific provincial requirements.

A coordinated EA will be carried out in a manner that is consistent with and mindful of provincially regulated deadlines set out in the relevant provincial class EA or Electricity Projects Regulation.

Figure 3.1: Key Steps, Roles and Responsibilities for Coordinating Class EA Projects or Electricity Project Assessments with Federal Screenings


Key Steps in Provincial Class EA Process
Problem or Opportunity or Need
Project Category[1]
Project Evaluation[2] / Environmental Assessment (EA) Preparation
Final EA Report, Review and Decision
Alternative Solutions/ "Alternatives To"[2]
Alternative Design Concepts/"Alternative Methods" for Preferred Solution[2]
Preferred Design/Method (undertaking/project)
Draft EA Report Review
Selection of Preferred Solution/ "Alternative To"
Selection of Preferred Design Concept/"Alternative Method"
Key Steps in Federal EA Process – Screening
Project Description
Scoping
Draft EA Report Review
Final EA Report and Decision
Key Roles and Responsibilities
Proponent to:
• Establish problem or opportunity or need
• Review for potential CEAA trigger[3]
Proponent to:[1]
• Determine project category[4]
• Review project for potential CEAA trigger[3]
Proponent to:
• Determine project category
• Review project for potential CEAA trigger[3]
• Provide study area
• Provide project description to the Agency or potential RA, if relevant at this stage[5]
• Undertake identification and evaluation of alternatives
• Maintain project file or project plan
• Select preferred solution
Proponent to:
• Review project for potential CEAA trigger (if not already done)
• Provide study area (if not already done)
• Provide project description to the Agency or potential RA (if not already done)
• Undertake identification and evaluation of alternative design concepts/alternative methods for preferred solution
• Select preferred design/ method
Proponent to:
• Prepare draft EA Report
• Provide additional information
• Provide draft EA Report to Agency
Proponent to:
• Prepare final EA Report
• Provide final EA Report to Agency
• Conduct public review of EA Report
• Ensure that all provincial class EA or Electricity Projects Regulation requirements have been met
Agency to:
• Circulate project description to likely RA(s) and expert FA(s)
RA(s) to:
• Outline information requirements
RA(s) to:
• Formally trigger CEAA as soon as reasonably possible
• Provide Notice of Commencement on CEAR
• Provide scope of project and scope of assessment
• Outline information requirements (if not already done)
Agency to:
• Coordinate federal review of draft EA Report
RA(s) to:
• Review and comment on draft EA Report
Agency to:
• Coordinate federal review of final EA Report, consolidate federal comments and provide comments to proponent
RA(s) to:
• Review and comment on final EA Report
• Make EA decision and decision on follow-up
Federal authorities actively engaged
Consultation with federal authorities to ensure information requirements satisfactorily addressed
Public and agency consultation as per applicable provincial class EA or Guide to Enviromental Assessment Requirements for Electricity Projects

[1] Optional or may occur at a different point in the process.

[2] Project evaluation process may or may not include a requirement to consider alternatives.

[3] This is a preliminary assessment only. The decision on whether there is a CEAA trigger is made by the RA.

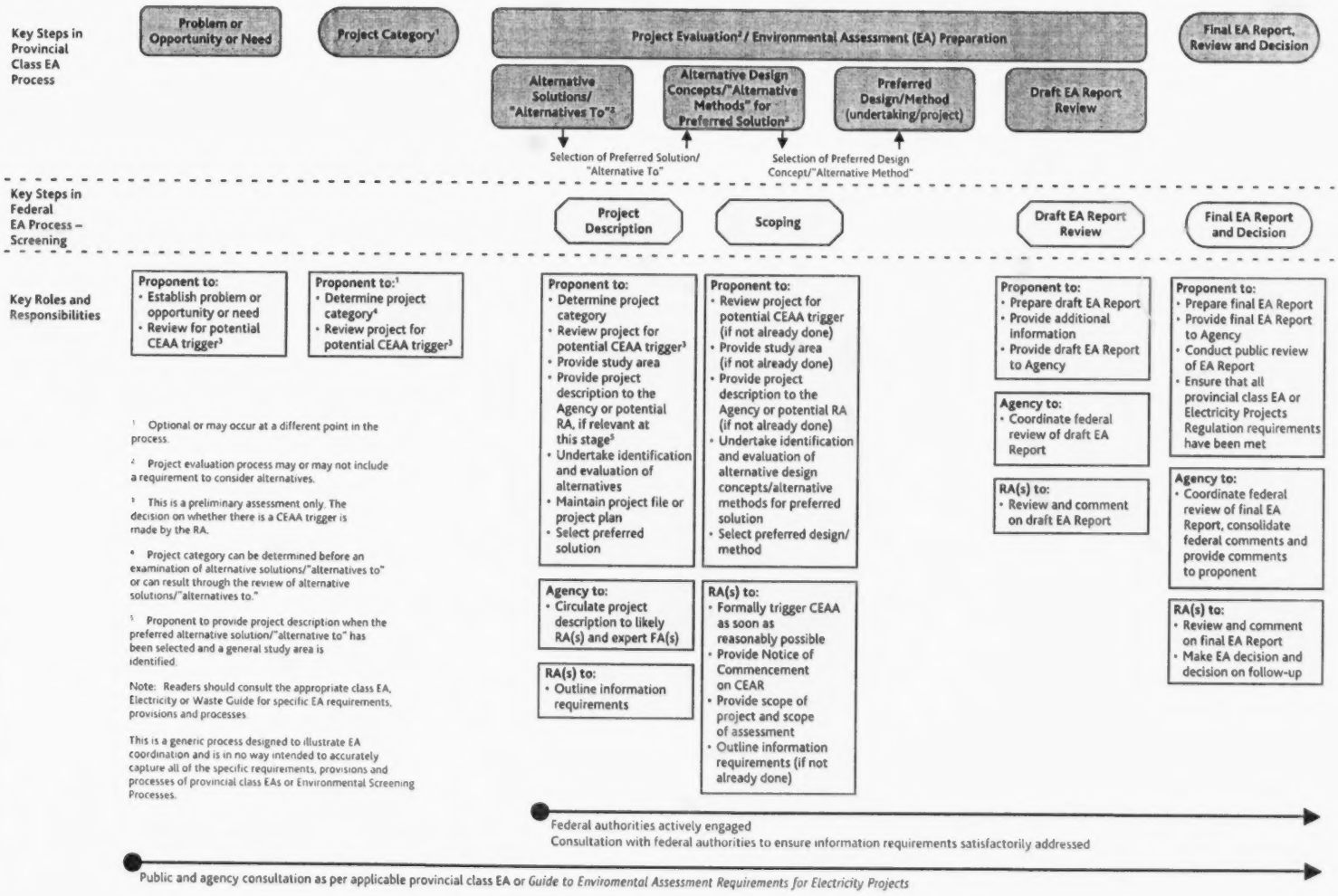
[4] Project category can be determined before an examination of alternative solutions/"alternatives to" or can result through the review of alternative solutions/"alternatives to."

[5] Proponent to provide project description when the preferred alternative solution/"alternative to" has been selected and a general study area is identified.

Note: Readers should consult the appropriate class EA, Electricity or Waste Guide for specific EA requirements, provisions and processes.

This is a generic process designed to illustrate EA coordination and is in no way intended to accurately capture all of the specific requirements, provisions and processes of provincial class EAs or Environmental Screening Processes.

Figure 3.1: Key Steps, Roles and Responsibilities for Coordinating Class EA Projects or Electricity Project Assessments with Federal Screenings


Key Steps in Provincial Class EA Process
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Project Category[1]
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Alternative Design Concepts/"Alternative Methods" for Preferred Solution[2]
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Selection of Preferred Solution/ "Alternative To"
Selection of Preferred Design Concept/"Alternative Method"
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Project Description
Scoping
Draft EA Report Review
Final EA Report and Decision
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• Review for potential CEAA trigger[3]
Proponent to:[1]
• Determine project category[4]
• Review project for potential CEAA trigger[3]
Proponent to:
• Determine project category
• Review project for potential CEAA trigger[3]
• Provide study area
• Provide project description to the Agency or potential RA, if relevant at this stage[5]
• Undertake identification and evaluation of alternatives
• Maintain project file or project plan
• Select preferred solution
Agency to:
• Circulate project description to likely RA(s) and expert FA(s)
RA(s) to:
• Outline information requirements
Proponent to:
• Review project for potential CEAA trigger (if not already done)
• Provide study area (if not already done)
• Provide project description to the Agency or potential RA (if not already done)
• Undertake identification and evaluation of alternative design concepts/alternative methods for preferred solution
• Select preferred design/ method
RA(s) to:
• Formally trigger CEAA as soon as reasonably possible
• Provide Notice of Commencement on CEAR
• Provide scope of project and scope of assessment
• Outline information requirements (if not already done)
Proponent to:
• Prepare draft EA Report
• Provide additional information
• Provide draft EA Report to Agency
Agency to:
• Coordinate federal review of draft EA Report
RA(s) to:
• Review and comment on draft EA Report
Proponent to:
• Prepare final EA Report
• Provide final EA Report to Agency
• Conduct public review of EA Report
• Ensure that all provincial class EA or Electricity Projects Regulation requirements have been met
Agency to:
• Coordinate federal review of final EA Report, consolidate federal comments and provide comments to proponent
RA(s) to:
• Review and comment on final EA Report
• Make EA decision and decision on follow-up
[1] Optional or may occur at a different point in the process.
[2] Project evaluation process may or may not include a requirement to consider alternatives.
[3] This is a preliminary assessment only. The decision on whether there is a CEAA trigger is made by the RA.
[4] Project category can be determined before an examination of alternative solutions/"alternatives to" or can result through the review of alternative solutions/"alternatives to."
[5] Proponent to provide project description when the preferred alternative solution/"alternative to" has been selected and a general study area is identified.
Note: Readers should consult the appropriate class EA, Electricity or Waste Guide for specific EA requirements, provisions and processes.
This is a generic process designed to illustrate EA coordination and is in no way intended to accurately capture all of the specific requirements, provisions and processes of provincial class EAs or Environmental Screening Processes.
Federal authorities actively engaged
Consultation with federal authorities to ensure information requirements satisfactorily addressed
Public and agency consultation as per applicable provincial class EA or Guide to Enviromental Assessment Requirements for Electricity Projects

3.3 Work Plans

In order to facilitate a coordinated EA, a work plan outlining overall process, key milestones and timelines may be prepared, generally by either the proponent or the Agency. A work plan may be prepared at the beginning of the EA, and should be discussed at a coordination start-up meeting to assist participants in understanding the expectations regarding the timing of the assessment, including the approximate amount of time (i.e. number of weeks) required by RAs and FAs to complete each step.

The work plan will generally be prepared once both EA processes have formally commenced. This would generally be when a preferred "alternative to/alternative solution" and study area are known.

Proponents are expected to advise the Agency of any changes to their project schedule so that the work plan can be adjusted accordingly.

3.4 Public Participation

In a coordinated EA, the Agency and RAs will work with the proponent to avoid duplication and promote efficiency in planning public consultation, to the extent provided for by CEAA and the relevant provincial class EA or Electricity Projects Regulation.

Proponents are encouraged to work with key stakeholder groups, the Agency and RAs to coordinate public participation initiatives, where possible and appropriate. This could include holding joint public meetings or issuing joint newsletters or project updates.

Another example of where participation initiatives could be coordinated is if an RA determines that it is appropriate to conduct public participation in accordance with subsection 18(3) of CEAA[14]. The Agency's *Ministerial Guideline on Assessing the Need for and Level of Public Participation in Screenings under the Canadian Environmental Assessment Act* contains criteria to assist RAs in determining whether public participation is warranted. In these cases the RA will, to the extent practical, work with the proponent to coordinate this public participation with the public review of the EA Report conducted by the proponent.

[14] Subsection 18(3) of CEAA indicates that when an RA is of the opinion that public participation in the screening of a project is appropriate in the circumstances, the RA shall give the public an opportunity to examine and comment on the screening report.

In addition, public records will be maintained according to the requirements contained in federal legislation, specific class EAs and the Electricity Guide. Both the public and proponents should be aware that documents, including those described in this guide, e-mail messages and other forms of communication prepared by the proponent (or their consultant) or either of the Parties, are accessible to the public.

3.5 Consideration of Aboriginal Interests

Where a project that is subject to a coordinated process for a provincial class EA or electricity project assessment and a federal screening has the potential to have environmental effects on Aboriginal communities, proponents must consult with those Aboriginal communities. Proponents are encouraged to address Aboriginal issues relevant to the class EA project, electricity project assessment or federal screening to the extent that it is practicable to do so. In addition, proponents should consider relevant government notification and consultation policies or procedures.

The goal of a coordinated approach to Aboriginal engagement is threefold, as follows:

- to facilitate early communication with potentially affected Aboriginal communities;
- to provide opportunities for the participation of Aboriginal communities in coordinated federal/provincial EA processes; and,
- to facilitate the incorporation of Aboriginal interests into coordinated EAs.

In certain situations, the provincial and/or federal governments may have further responsibilities to consult with Aboriginal communities regarding asserted or existing Aboriginal or treaty rights. Procedural aspects of these consultation obligations may be delegated to proponents.

It should be noted that whether or not the Crown has a legal duty to consult with an Aboriginal community, the community may be an interested person for the purposes of public consultation.

3.6 Addressing Mitigation and Follow-up

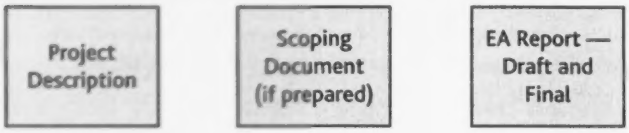
Impact management measures, such as mitigation measures, must be considered for class EA projects, electricity project assessments and federal screenings.

For a federal screening, an RA must decide whether a follow-up program is appropriate for a project. A follow-up program can verify the accuracy of an EA and can determine the effectiveness of any measures used to mitigate environmental effects. When an RA(s) determines that a follow-up program is required, the RA(s) may develop a project-specific agreement that outlines agreed-upon follow-up requirements. RAs are responsible for designing the follow-up program and for ensuring that it is implemented according to any project-specific agreement.

The Agency may assist in the development of a project-specific agreement, outlining commitments to mitigation measures and follow-up, as well as any other terms or conditions.

3.7 EA Documentation

For a coordinated EA, documentation generally consists of:



Further information on each of these documents is provided below.

3.7.1 Project Description

In order to initiate the federal EA process, a proponent must submit a project description to the Agency, as soon as sufficient information on the project is available. Doing so allows potential RAs to determine whether or not they have an EA responsibility. Generally, the earliest appropriate time would be when a preferred "alternative to/alternative solution"[15] is selected and a study area is known. This is an important step that enables potential RAs to determine whether CEAA applies, and FAs to determine whether they will be providing expert advice on the project. The project description should contain enough information to identify whether there is the potential for federal EA requirements[16].

The project description, scoping document and EA Reports are the main documents that are prepared. There may also be other documents such as technical reports, consultation reports and provincial ministry reviews that are prepared. All of these documents are accessible to the public upon request.

Once a proponent has provided the Agency with a project description that contains the necessary information, the Agency will circulate it to potential RAs and expert FAs. The potential RAs and expert FAs will have 30 days to review and comment on the project description. Once all responses are received, the Agency will inform the federal team and the proponent of the results of the circulation.

[15] A consideration of "alternatives" may or may not be required. Readers should consult the appropriate provincial class EA, Electricity Guide or Waste Guide for specific EA requirements, provisions and processes.

[16] The *Operational Policy Statement on Preparing Project Descriptions under the Canadian Environmental Assessment Act* (2000) outlines the information that FAs require. It can be found on the Agency's website (www.ceaa-acee.gc.ca).

Where the proponent's information on a project is at a very general level, the development of a project description may have to wait until later in the EA process. The Agency will work with proponents in advising them of information to be included in the project description. If the project description does not contain enough information for potential RAs to determine whether they have a federal EA responsibility, the Agency will provide advice about additional information requirements. Proponents may need to provide additional information as more is learned about the project and its potential environmental effects.

Some provincial class EAs require that a project description be prepared. Proponents should contact the Agency for advice on how to coordinate these requirements with the information that potential RAs need to determine whether or not they have an EA responsibility.

3.7.2 Scoping Document

A scoping document outlines the RA's determinations regarding project-specific information requirements and establishes the boundaries of the federal screening. It outlines what components the RA(s) considers to be within the scope of the project it is assessing and it outlines the factors and scope of factors (i.e. the scope of assessment) to be addressed. Consultation with the public on the scoping document may occur but it is not required. Members of the public may request a copy of the scoping document. Provincially, the Electricity Guide includes a screening process to assist in scoping the provincial EA. Proponents should obtain advice from the Agency to determine how to best coordinate this provincial scoping exercise with federal scoping requirements.

Federal information requirements may be refined and further clarified as the EA process proceeds. If this is the case, it will be documented and the documentation will be available to the public upon request. RAs will be making a judgment about the likelihood of significant adverse environmental effects after mitigation and they have the discretion to determine what information they require before making such a judgment.

Proponents should be aware that there is a difference between the federal advice received through a provincial EA process and federal advice received through a federal EA process. Further information is provided in the text box included in Section 2.9.3 (refer to page 16).

3.7.3 EA Report[17]

A coordinated EA process should result in a single body of documentation on environmental effects, where appropriate, that satisfies both federal and provincial EA requirements. At a minimum, there should be a single body of documentation describing the potential environmental effects of a project, the proposed measures to mitigate, reduce or avoid the effects and the residual effects after avoidance or mitigation. It should contain enough information for both RAs to make their EA decisions and for provincial review agencies to be satisfied that applicable provincial mandates and requirements have been met, and includes all documents that may be produced and submitted to the Agency during the EA process.

To meet the requirement of having a single body of documentation on environmental effects, the draft and final EA Reports can be either: (a) a single document that integrates all federal and provincial information in the main body of the report; or, (b) a document that provides information on either the provincial or federal process in the main body with the information on the other process attached.

For class EA projects and electricity project assessments, the proponent is responsible for carrying out the public and agency review of the EA Report.

Proponents should submit a draft EA Report for federal review so that federal departments can ensure that their information needs have been met. The Agency will facilitate the federal review of the draft EA Report, consolidate federal comments, where appropriate, and provide these comments to the proponent.

Where agencies have participated in the class EA process or electricity project assessment and/or requested to review documentation prepared by the proponent, proponents should also provide a draft EA Report to relevant agencies so that they can determine if their information needs have been met.

Proponents should advise the Agency regarding how they will address federal comments.

3.8 How Will the Federal Review of the EA Report Be Conducted?

The Agency will coordinate the federal review of the EA Report by:

- consolidating federal government comments, where appropriate, and providing them to the proponent to be addressed;

[17] The term "EA Report" is used here to include documents prepared in accordance with a provincial class EA or the Electricity Guide and the scoping document, if prepared. Other terms that are used to describe EA documentation include Environmental Study Reports (for class EA projects) and Screening Reports or Environmental Review Reports (for electricity projects and federal screenings).

- working with RAs so that it is possible for them to make an EA decision in approximately the same time frame as the proponent fulfils provincial class EA or Electricity Projects Regulation requirements, based on the coordinated EA work plan.

If the review identifies outstanding information requirements, issues or comments to be addressed, a proponent will have to advise the RAs, through the Agency, about how they will be addressed. The proponent may need to hold further discussions with the Agency and/or RAs and FAs.

Any responses provided by the proponent will be reviewed by the federal team. The Agency will inform the proponent when the federal comments have been adequately addressed.

If there are changes in the scope of the EA, or the commitments outlined in the EA, the proponent should bring these to the attention of the Agency.

3.9 When Will Decisions Be Made?

For class EA projects and projects following a provincial Environmental Screening Process, no decision is required from the Minister. However, before proponents can fulfil provincial EA requirements, an EA Report must be made available to the public and government agencies for review and comment.

The Agency will work with RAs so that it is possible for them to make an EA decision in approximately the same time frame as the proponent fulfils its provincial class EA or Electricity Projects Regulation requirements. The Agency will advise the proponent of the RA's screening decision before the RA posts its decision on the CEAR (www.ceaa-acee.gc.ca/050/index_e.cfm), where practical.

3.10 What Happens When There Is a Part II Order or an Elevation Request?

The EAAB will advise proponents if the MOE receives a Part II Order or "bump-up" request (for a class EA project) or an elevation request (for an electricity project). The EAAB will also notify the Agency, particularly in cases where the EAAB has reason to believe that there may be a CEAA trigger that has not yet been identified, as early in the process as possible. The Agency will then let the EAAB know whether there are any outstanding federal issues that may be relevant to the review of the Part II Order or elevation request.

The proponent will be required to provide the EAAB with documentation on how the proponent has addressed, or will address, any other issues raised by requestors, including any outstanding federal issues that the Agency identifies. In addition, the EAAB may require the proponent to provide a record of consultations carried out with interested persons, including Aboriginal communities. The EAAB may also require the proponent to conduct further assessment, public consultation or study in order to address these issues. The EAAB will review the Part II Order or elevation request when the proponent provides the required information.

The EAAB and the Agency will work together, as required, consistent with and mindful of provincially regulated deadlines, as set out in the applicable provincial class EA or the Electricity Guide, for the review of Part II Order or elevation requests.

The EAAB will notify the proponent and those stakeholders who made the Part II Order or elevation request once a decision has been made.

4. For More Information

For more information about the Agreement, determining if your project requires a coordinated EA, the role of the EAAB and the Agency, provincial EA requirements, federal EA requirements or other EA-related matters, please contact the following:

Ministry of the Environment
Environmental Assessment and Approvals Branch
2 St. Clair Avenue West, Floor 12A
Toronto, Ontario M4V 1L5

Telephone: 416-314-8001
Toll Free: 1-800-461-6290
Fax: 416-314-8452
E-mail: eaabgen.moe@ontario.ca

Canadian Environmental Assessment Agency
Ontario Region
55 St. Clair Avenue East, Room 907
Toronto, Ontario M4T 1M2

Telephone: 416-952-1576
Fax: 416-952-1573
E-mail: ceaa.ontario@ceaa-acee.gc.ca

Contact EAAB or the appropriate regional office (for updated regional office information, please see www.ene.gov.on.ca/envision/org/op.htm#Reg/Dist) to obtain information and assistance from provincial regional EA coordinators about class EA projects and projects that follow a provincial Environmental Screening Process.

In addition, the EAAB has guidance materials for the following key elements of the EA process:

- terms of reference;
- consultation;
- mediation;
- individual EAs;
- class EAs;
- electricity projects;
- waste management projects.

Details on these guidance materials, which will be available for use by proponents and the public, are provided in Section 5.

5. Useful References

Government of Canada and Province of Ontario. November 2004. Canada-Ontario Agreement on Environmental Assessment Cooperation.

Federal

At the time of publication, the Agency was in the process of updating its EA guides and Operational Policy Statements. Please consult the Agency's website referenced below for the most up-to-date guides and Operational Policy Statements.

Canadian Environmental Assessment Agency. July 2006. Ministerial Guideline on Assessing the Need for and Level of Public Participation in Screenings under the *Canadian Environmental Assessment Act.*

Canadian Environmental Assessment Agency. January 2006. Glossary: Terms Commonly Used in Federal Environmental Assessments.

Canadian Environmental Assessment Agency, Ontario Region. January 2005. Advice to Proponents at the Terms of Reference Stage for a Coordinated Federal/Provincial Environmental Assessment Process. Federal Screening under the *Canadian Environmental Assessment Act* and individual Environmental Assessment under the Ontario *Environmental Assessment Act.*

Canadian Environmental Assessment Agency. October 2002. Operational Policy Statement. Follow-up Programs under the *Canadian Environmental Assessment Act.*

Canadian Environmental Assessment Agency. August 2000. Operational Policy Statement. Preparing Project Descriptions under the *Canadian Environmental Assessment Act.*

Canadian Environmental Assessment Agency. March 1999. Operational Policy Statement. Addressing Cumulative Environmental Effects under the *Canadian Environmental Assessment Act.*

Canadian Environmental Assessment Agency. September 1998. Operational Policy Statement on the Scope of Environmental Assessment.

Canadian Environmental Assessment Agency. November 1994. Reference Guide: Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects.

Provincial

Ministry of the Environment. March 2001. Guide to Environmental Assessment Requirements for Electricity Projects.

Ministry of the Environment. March 2007. Guide to Environmental Assessment Requirements for Waste Management Projects.

Ministry of the Environment. June 2007. Code of Practice: Consultation in Ontario's Environmental Assessment Process.

Ministry of the Environment. June 2007. Code of Practice: Using Mediation in Ontario's Environmental Assessment Process.

Ministry of the Environment. June 2007. Code of Practice: Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario.

Ministry of the Environment. 2007. Preparing and Reviewing Environmental Assessments in Ontario.

Ministry of the Environment. 2007. Preparing, Reviewing and Using Class Environmental Assessments in Ontario.

Websites

Canadian Environmental Assessment Agency: www.ceaa-acee.gc.ca

Ontario Ministry of the Environment: www.ontario.ca/environment

Appendix A: Glossary

The definitions in this Glossary are intended to assist the reader in understanding the terms used in this guide. For complete definitions, it is recommended that the *Canadian Environmental Assessment Act* and the Ontario *Environmental Assessment Act* be consulted. In all cases, the wording contained in the federal and provincial environmental assessment legislation shall prevail.

Canada-Ontario Agreement on Environmental Assessment Cooperation (Agreement): signed in November 2004, the Agreement creates a framework within which the federal and provincial governments can cooperate on environmental assessments for projects that are subject to both CEAA and the OEAA, and confirms their commitment to work together in carrying out their respective powers and duties. The Agreement applies to any person or body that is required to ensure that an EA is conducted under CEAA and for any person or body having a decision-making authority under the OEAA.

Class environmental assessment (class EA): an EA that is subject to the requirements set out in Part II.1 of the OEAA. A class EA sets out a planning process for a defined class or group of projects or activities. A class EA is approved under the OEAA and applies to projects or activities that are carried out often and have predictable environmental effects that can be managed. A proponent who receives approval for a class of projects or activities does not need to obtain separate approval under the OEAA for each specific project or activity, provided the class planning process is adhered to.

Class environmental assessment project (class EA project): a project planned and developed according to a provincially approved class EA.

Cooperative environmental assessment: the EA of a proposed project where Canada and Ontario have an EA responsibility, and they cooperate to meet the legal EA requirements of both Parties.

Electricity project assessment: the Environmental Screening Process that must be carried out for Category B electricity projects, as described in the MOE guideline entitled, *Guide to Environmental Assessment Requirements for Electricity Projects.*

Environment (OEAA definition): means

(a) air, land or water,
(b) plant and animal life, including human life,
(c) the social, economic and cultural conditions that influence the life of humans or a community,

(d) any building, structure, machine or other device or thing made by humans,
(e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities, or
(f) any part or combination of the foregoing and the interrelationships between any two or more of them,

in or of Ontario.

Environment (CEAA definition): means the components of the Earth, and includes

(a) land, water and air, including all layers of the atmosphere,
(b) all organic and inorganic matter and living organisms, and
(c) the interacting natural systems that include components referred to in paragraphs (a) and (b).

Environmental assessment (EA): the assessment and documentation of the environmental effects of a proposed project conducted in accordance with CEAA and/or in accordance with the OEAA and their regulations.

Environmental Assessment Report (EA Report):

(a) for Canada, the documentation provided by the proponent in response to the scope of the project, the factors to be considered under section 16 of CEAA, and the scope of those factors; and,
(b) for Ontario, the document that is submitted by a proponent seeking approval for an undertaking under the OEAA. The EA document is the result of the proponent's entire planning process, including pre-submission consultation.

For the purposes of this guide, EA Report is also used to mean the documentation prepared by proponents who are subject to a class EA process or the Environmental Screening Process.

Environmental effect, in respect of a project (CEAA definition):

(a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the *Species at Risk Act*,
(b) any effect of any such change referred to in paragraph (a) on
  (i) health and socioeconomic conditions,
  (ii) physical and cultural heritage,
  (iii) the current use of lands and resources for traditional purposes by Aboriginal persons, or

(iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or

(c) any change to the project that may be caused by the environment,

whether any such change or effect occurs within or outside Canada.

Environmental Screening Process: an Environmental Screening Process is a streamlined, proponent-led, self-assessment process. Proponents of electricity projects designated under section 4 of Ontario Regulation 116/01 (Electricity Projects Regulation) must successfully complete the process described in Part B of the *Guide to Environmental Assessment Requirements for Electricity Projects, March 2001.* Proponents of waste management projects designated under Part III of Ontario Regulation 101/07 (Waste Management Projects Regulation) must successfully complete the process described in Part B of the *Guide to Environmental Assessment Requirements for Waste Management Projects, March 15, 2007.* Proponents must consult with the public and agencies and prepare documentation.

Expert federal authority (expert FA): a federal authority that has specialist or expert information or knowledge with respect to a project that can be provided to an RA, mediator or panel during the conduct of an EA, including expertise on the implementation of mitigation measures and any follow-up program.

Federal authority (FA):

(a) a Minister of the Crown in right of Canada,
(b) an agency or other body of the federal government ultimately accountable to Parliament through a federal Minister of the Crown,
(c) any department or departmental corporation set out in Schedule I or II of the *Financial Administration Act*, and
(d) any other body that is prescribed pursuant to regulation under CEAA.

Federal screening: a screening is a systematic approach to assessing the environmental effects of a proposed project and determining the need to eliminate or minimize (mitigate) the adverse effects, to modify the project plan or to recommend further assessment. The responsible authority must ensure that the screening of the project is carried out. Screenings will vary in time, length and depth of analysis, depending on the circumstances of the proposed project, the existing environment, and the likely environmental effects. The responsible authority must prepare or ensure the preparation of a report which summarizes the findings of the screening.

Follow-up: is defined in CEAA as a program for:

(a) verifying the accuracy of the environmental assessment of a project, and
(b) determining the effectiveness of any measures taken to mitigate the adverse environmental effects of the project.

Government Review Team (GRT) (provincial): government ministries and agencies (including MOE technical reviewers, federal, provincial, municipal and others) who are invited to participate and contribute to the review of provincial EA documentation (ToR and EAs) by providing comments based on their mandated areas of responsibility.

Individual environmental assessment (individual EA): an EA that is subject to the requirements set out in Part II of the OEAA.

Joint Assessment Committee (JAC): the JAC is a forum for the sharing and exchange of project information and facilitating an efficient coordinated EA process. The JAC includes the EAAB, Agency and RAs.

Lead Party: the Party as determined under Section 9 of the Agreement. In most cases, the Lead Party is Ontario, as represented by the EAAB.

Ontario Regulation 116/01: (also referred to as the Electricity Projects Regulation in this guide) outlines specific requirements for the EA of electricity projects. The proponent-led self-assessment process has specific requirements for different project categories.

Party: for Canada, any person or body that is required to ensure an EA is conducted under CEAA (RA(s), as represented by the Agency); for Ontario, any person or body having a decision-making authority under the OEAA (the Minister, as represented by the EAAB).

Project: means a project as defined in subsections 2(1) and 2(3) of CEAA (i.e. an "undertaking" in relation to a physical work, or a physical activity prescribed according to the Inclusion List Regulation) or an "undertaking" as defined in subsection 1(1) of the OEAA. Federally, the term "undertaking" refers to project phases (e.g. construction, operation, modification, decommissioning, abandonment, etc.).

Project description: a project description is information provided in relation to a project that includes: a summary of the project; the location of the project and the areas potentially affected by the project; a summary description of the environment potentially affected by the project; and, contact information for the proponent. The project description should provide sufficient information for an FA to determine whether it has a decision-making responsibility that triggers the need for an assessment of the project in accordance with CEAA.

Proponent: a person, agency, group, organization, public body, federal authority or government that proposes to carry out a project, or is responsible for the management or control of a project.

Responsible authority (RA): in accordance with CEAA and in relation to a project, an FA that is required to ensure that an EA of a project is conducted.

Scoping document: for Canada, the scope of the project, the factors to be considered and the scope of the factors as determined under sections 15 and 16 of CEAA by an RA for a screening.

Single body of documentation on environmental effects: documentation that describes, at a minimum, the potential environmental effects of a project and the proposed measures to mitigate, reduce or avoid them and that satisfies both provincial and federal EA requirements. It includes all documents that are produced and submitted to either Party during the EA process to meet federal and provincial information requirements. For example, the EA could be:

(a) a single document containing all federal and provincial information; or,
(b) a set of documents that provides information on either the provincial or federal process with the information on the other Party's process attached.

Terms of reference (ToR): for Ontario, the formal document submitted for the Minister's approval early in the EA process that sets out the proponent's work plan to be followed during the preparation of an EA. Once approved, the EA must be prepared according to the approved ToR.

Timeline: in the context of work plans, refers to the number of weeks to perform a task, not a specific date.

Trigger: circumstances that oblige a prescribed body or a federal authority to ensure that an EA is conducted under CEAA or its regulations. The circumstances under which a federal authority must ensure that an EA is conducted under CEAA occur when a federal authority has a specified decision-making responsibility in relation to a project, specifically when a federal authority is the proponent of a project; provides financial assistance to the proponent; makes federal lands available for the project; or, issues certain permits or licences, or other approvals.

Work plan: a work plan outlines a plan for the project's EA, including roles and responsibilities and a schedule of anticipated timelines for agreed-upon deliverables.

Appendix B: Coordination Roles

Agency Coordinator (Federal Environmental Assessment Coordinator) (FEAC)

A federal environmental assessment coordinator (FEAC) from the Agency will be established for each coordinated EA conducted. The Agency Coordinator will be the principal point of contact for FAs during the assessment process. The Agency Coordinator will:

- bring together all FAs that may need to be involved in the EA;
- when appropriate, consolidate federal information requirements for the assessment;
- coordinate the actions of FAs with those of provincial governments in the case of joint assessments, and with other bodies (e.g. band councils) that may be conducting assessments under CEAA, to prevent overlap and duplication;
- coordinate FAs' obligations for the Canadian Environmental Assessment Registry;
- establish and chair project committees that include representatives of all actual and potential RAs and interested FAs;
- establish timelines for EAs, after consulting with potential RAs and FAs;
- determine, in consultation with RAs, the timing of any public participation required by CEAA or proposed by an RA.

These measures are intended to reduce costly delays in project planning and improve the consistency of information requirements and timing of project decisions.

Provincial Project Officer

A Project Officer from the EAAB will be assigned for each EA conducted. When acting as the Lead Party, the Project Officer will be the principal point of contact with the proponent, JAC and the provincial GRT. The Project Officer is responsible for managing the review of an application for EA approval and determining whether the EA meets the requirements of the OEAA. Specifically, the Project Officer will:

- ensure that legislative responsibilities (e.g. ToR submission, public consultation), provincially regulated deadlines and environmental goals are achieved;
- coordinate the actions of multi-disciplinary teams, often composed of regulatory and non-regulatory ministries/agencies and representatives from several levels of government;
- determine technical review needs and participants in the GRT;
- develop a project-specific work plan with goals and objectives and track project performance in achieving work plan targets;
- ensure that upon receipt of a formal EA submission, the relevant information is posted on MOE's website, and that these postings are updated throughout the EA process;

- complete the evaluation of comments received from GRT/MOE technical reviewers and the public, and the proponent's response to those comments;
- evaluate the comments received and the proponent's response to those comments at the close of the public comment period;
- prepare a recommendation for the Minister to make a decision.

These measures are intended to promote and strengthen environmental planning and allow Project Officers to process EA applications efficiently and consistently.

Provincial Regional EA Coordinator

Regional EA coordinators are the first MOE point of contact for proponents and are responsible for managing the MOE technical review and ensuring that MOE concerns are provided to the proponent for their consideration. When a proponent notifies MOE through one of MOE's five regional offices (Central, Southwestern, West Central, Northern, Eastern), a regional EA coordinator is assigned to coordinate the MOE technical review of class EA projects and electricity project assessments which follow the prescribed Environmental Screening Process.

The regional EA coordinator may also assist the EAAB in preparing comments on the MOE technical review of individual EAs, requests for Part II Orders (for class EA projects), and elevation requests (for electricity project assessments).

Specifically, the regional EA coordinator will:

- consult with MOE staff and consolidate comments on technical issues such as air, noise, water, contaminated sites, ecosystem protection and other matters that fall within MOE's mandate, jurisdiction or areas of interest, while taking into account any relevant MOE legislation (e.g. *Ontario Water Resources Act, Environmental Protection Act, Pesticides Act*), policies or guidelines that proponents should consider;
- provide general guidance to proponents and the public on approved class EAs and specific projects that are carried out under these class EAs;
- provide general guidance to proponents and the public on projects that follow the prescribed Environmental Screening Process according to the Electricity Projects Regulation and accompanying Electricity Guide.

Appendix C: Suggested Wording for Inclusion in the Terms of Reference for a Coordinated Federal/Provincial EA Process

Federal/Provincial EA Coordination

The proponent's undertaking is subject to the requirements of the Ontario *Environmental Assessment Act* (OEAA). The requirements of the *Canadian Environmental Assessment Act* (CEAA) may also apply. The proponent intends to work in a coordinated way with provincial and federal governments, both governments having formally agreed to coordinate their respective EA processes pursuant to the *Canada-Ontario Agreement on Environmental Assessment Cooperation* (November 2004).

Coordinated EA Process

The proponent will be guided by the federal/provincial coordination process chart outlined in the supporting documentation of this terms of reference. This proposed approach is designed to address the information requirements of both federal and provincial environmental assessment legislation.

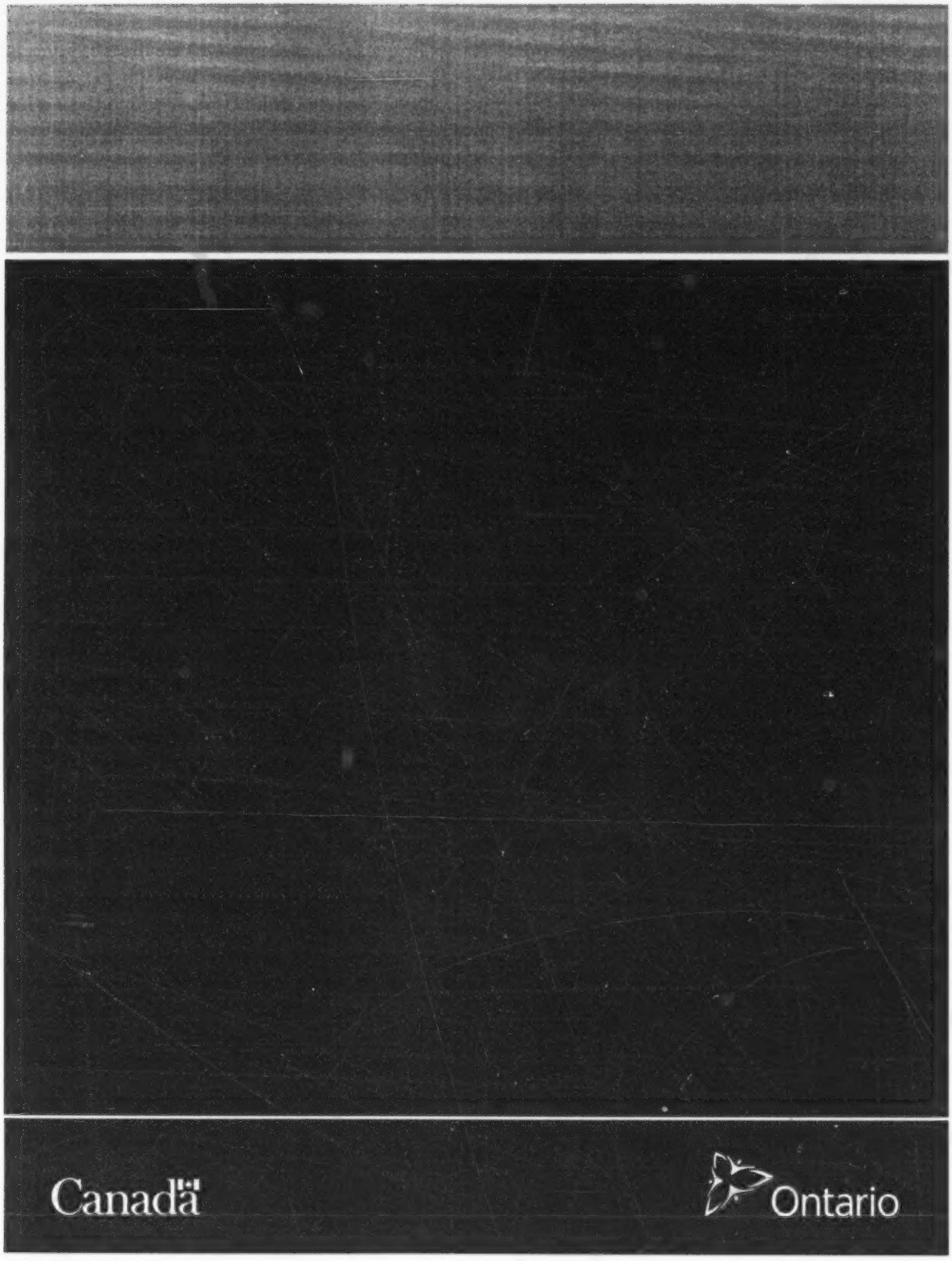
Application of the Coordinated EA Process to the Proposed Project

It is recognized by both the Canadian Environmental Assessment Agency (on behalf of the federal authorities) and the proponent, that ongoing dialogue on the information requirements is required throughout the environmental assessment (EA) process as more is learned about the specifics of the project. As such, it may be necessary for the proponent to provide additional or more detailed information as the EA process proceeds. The intent is to produce a single body of documentation on environmental effects to meet all of the information needs of both the federal and provincial governments. To the extent practical, federal/provincial information requirements regarding potential factors to be assessed in the context of this study have been integrated. General information requirements under CEAA can be found in the supporting documentation of this terms of reference.

Appendix D: List of Provincial Class Environmental Assessments

The following lists current class EAs in Ontario, at the time of printing of this guide. For an updated list, please refer to MOE's website at www.ontario.ca/environment.

Proponent	Class EA Title
Ministry of Natural Resources (MNR)	Resource Stewardship and Facility Development Projects
MNR	Provincial Parks and Conservation Reserves
MNR	Forest Management on Crown Lands in Ontario (a Declaration Order) and Forest Management Planning Manual
Ontario Hydro (now known as Hydro One)	Minor Transmission Facilities
Ontario Hydro (now known as Ontario Power Generation)	Modifications to Hydroelectric Facilities
Ministry of Transportation (MTO)	Provincial Transportation Facilities
Municipal Engineers Association	Municipal Class EA
GO Transit	GO Transit Class EA
Ontario Realty Corporation (ORC)	Class EA Process for Management Board Secretariat and Ontario Realty Corporation
Conservation Ontario	Remedial Flood and Erosion Control Projects



Canada

Ontario